

1 C. D. Michel – SBN 144258
2 cmichel@michellawyers.com
3 Joshua R. Dale – SBN 209942
4 jdale@michellawyers.com
5 Konstadinos T. Moros – SBN 306610
6 kmoros@michellawyers.com
7 Alexander A. Frank – SBN 311718
8 afrank@michellawyers.com
9 MICHEL & ASSOCIATES, P.C.
10 180 E. Ocean Blvd., Suite 200
11 Long Beach, CA 90802
12 Telephone: (562) 216-4444
13 Donald Kilmer-SBN 179986
14 Law Offices of Donald Kilmer, APC
15 14085 Silver Ridge Road
16 Caldwell, Idaho 83607
17 Telephone: (408) 264-8489
18 Email: Don@DKLawOffice.com

19 Attorneys for Plaintiffs

20 **UNITED STATES DISTRICT COURT**
21 **CENTRAL DISTRICT OF CALIFORNIA**
22 **SOUTHERN DIVISION**

23 RENO MAY, an individual; ANTHONY
24 MIRANDA, an individual; ERIC HANS,
25 an individual; GARY BRENNAN, an
26 individual; OSCAR A. BARRETTO, JR.,
27 an individual; ISABELLE R.
BARRETTO, an individual; BARRY
BAHRAMI, an individual; PETE
STEPHENSON, an individual; ANDREW
HARMS, an individual; JOSE FLORES,
an individual; DR. SHELDON HOUGH,
DDS, an individual; SECOND
AMENDMENT FOUNDATION; GUN
OWNERS OF AMERICA; GUN
OWNERS FOUNDATION; GUN
OWNERS OF CALIFORNIA, INC.; THE
LIBERAL GUN CLUB, INC.; and
CALIFORNIA RIFLE & PISTOL
ASSOCIATION, INCORPORATED,

28 Plaintiffs,
v.

ROBERT BONTA, in his official capacity
as Attorney General of the State of
California, and DOES 1-10,

Defendants.

Case No.: 8:23-cv-01696 CJC (ADSx)

MAY PLAINTIFFS'
EVIDNETIARY OBJECTIONS TO
AND MOTION TO STRIKE THE
SUR-REBUTTAL TESTIMONY
OF DEFENDANT'S EXPERT
WITNESSES:

- 1) ADAM WINKLER,
- 2) JOSHUA SALZMANN,
- 3) DR. BRENNAN RIVAS,
- 4) LEAH GLASER,
- 5) MARY FISSELL,
- 6) PATRICK CHARLES, AND
- 7) HOLLY BREWER

Hearing Date: December 20, 2023
Hearing Time: 1:30 p.m.
Courtroom: 9 B
Judge: Hon. Cormac J. Carney

1 **TO THIS HONORABLE COURT:**

2 Plaintiffs Reno May, Anthony Miranda, Eric Hans, Gary Brennan, Oscar A.
 3 Barretto, Jr., Isabelle R. Barretto, Barry Bahrami, Pete Stephenson, Andrew Harms,
 4 Jose Flores, Dr. Sheldon Hough, DDS, The Second Amendment Foundation, Gun
 5 Owners of America, Inc., Gun Owners of California, Inc., The Liberal Gun Club,
 6 Inc., and California Rifle & Pistol Association, Incorporated, hereby object to the
 7 entirety of each of the *sur-rebuttal* declarations filed in support of Defendant's
 8 opposition to the preliminary injunction, such declarations authored by (1) Adam
 9 Winkler (Dkt 38), (2) Joshua Salzmann (Dkt 37), (3) Dr. Brennan Rivas (Dkt 36),
 10 (4) Leah Glaser (Dkt 35), (5) Mary Fissell (Dkt 34), (6) Patrick Charles (Dkt 33),
 11 and (7) Holly Brewer (Dkt 32). Such objections are made on the following
 12 grounds:

13 The *sur-rebuttal* declarations were filed in violation of C.D. Cal. Local Rule
 14 7-9 (time for presenting opposing briefs and evidence on motions), and 7-10 (no
 15 response to reply permitted absent court permission); *see also Gebretsadik v.*
 16 *Travelers Home and Marine Ins. Co.*, 103 F. Supp. 3d 78, 86 (D.D.C. 2015).)

17 Mr. Cramer's declaration submitted on reply in direct response to the deluge
 18 of false, speculative, and irrelevant information presented by the Attorney General
 19 in opposition was not an invitation for the Attorney General to submit unapproved
 20 *sur-reply* evidence rebutting Mr. Cramer's declaration. *See Terrell v. Contra Costa*
 21 *Cnty.*, 232 Fed. App'x 626, 629 n.2 (9th Cir. 2007) (evidence presented in reply to
 22 opposition is not "new" when it is presented in direct response to opposition
 23 evidence), citing *In re ConAgra Foods, Inc.*, 302 F.R.D. 537, 559 (C.D. Cal. 2014)
 24 (same). Nor did the Attorney General seek the Court's permission before further
 25 using the substantial financial advantage of the State's treasury to pay experts for
 26 additional written opinions; additional opinions that not only further muddle the
 27 record, but which Plaintiffs now have no opportunity to address. *See* C.D. Cal. L.R.
 28 7-9 & 7-10.

1 As Plaintiffs have the burden of persuasion as the moving party,
2 consideration by the Court of this additional evidence without an opportunity for
3 Plaintiffs to rebut and comment upon it denies them due process. *See generally*
4 *Towery v. Brewer*, 672 F.3d 650, 657 (9th Cir. 2012). Plaintiffs move to strike
5 these *sur-rebuttal* declarations in their entirety.

6 Plaintiffs further incorporate into these objections their prior objections made
7 under, *inter alia*, Fed. R. Evid. 403 and 702 (Dkts 29-1, 29-5, 29-6, 29-7 & 29-14)
8 as to the overall relevance and admissibility of any testimony of witnesses (1)
9 Adam Winkler, (2) Joshua Salzmann, (3) Leah Glaser, and (4) Mary Fissell on the
10 basis that their *sur-rebuttal* testimony is as irrelevant, lacking foundation, or
11 otherwise inappropriate in informing the Court as were their declarations filed in
12 opposition to the motion.

13 Dated: December 14, 2023

MICHEL & ASSOCIATES, P.C.

/s/ C.D. Michel

C.D. Michel
Counsel for Plaintiffs

17 Dated: December 14, 2023

LAW OFFICES OF DON KILMER

/s/ Don Kilmer

Don Kilmer
Counsel for Plaintiff The Second Amendment
Foundation

CERTIFICATE OF SERVICE
IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Case Name: *May, et al. v. Bonta*
Case No.: 8:23-cv-01696 CJC (ADSx)

IT IS HEREBY CERTIFIED THAT:

I, the undersigned, am a citizen of the United States and am at least eighteen years of age. My business address is 180 East Ocean Boulevard, Suite 200, Long Beach, California 90802.

I am not a party to the above-entitled action. I have caused service of:

**MAY PLAINTIFFS' EVIDNETIARY OBJECTIONS TO AND MOTION TO
STRIKE THE SUR-REBUTTAL TESTIMONY OF DEFENDANT'S
EXPERT WITNESSES:**

- 1) ADAM WINKLER,
 - 2) JOSHUA SALZMANN,
 - 3) DR. BRENNAN RIVAS,
 - 4) LEAH GLASER,
 - 5) MARY FISSELL,
 - 6) PATRICK CHARLES, AND
 - 7) HOLLY BREWER

on the following party by electronically filing the foregoing with the Clerk of the District Court using its ECF System, which electronically notifies them.

Robert L. Meyerhoff, Deputy Attorney General
California Department of Justice
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
Email: Robert.Meyerhoff@doj.ca.gov
Attorney for Defendant

I declare under penalty of perjury that the foregoing is true and correct.

Executed December 14, 2023.

Christina Castron